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38 46. (New) The boiled sugar composition according to claim 39, comprising by weight on a dry basis 65% to 75% of mannitol and by weight on a dry basis 25% to 35% of a fraction of hydrogenated dextrins.

REMARKS

New claims 39 to 46, have been redrafted to clearly define the subject of the invention which concerns a specific boiled sugar composition.

Support for this new claim 39 can be found:

- through specification, for "boiled sugar",
- and at page 9 line 20-21 and 23-25 for the phrase "whereby the boiled sugar presents a microcrystallized surface layer."
- Support for new claim 41 can be found at pages 14 table 2.

Claims 31-38 are rejected under 35 USC§112 first and second paragraphs.

Applicants respectfully disagree :

The presence of the microcrystallized surface layer is the directly obtained result of the specific selection of the two components of the boiled sugar according to claim 39. The term "microcrystallized layer" is clear for the person skilled in the art and cannot be assimilated nor the term "crystallized" which concerns the "turning phenomenon" and/or "graining aspect", as indicated in Mr. RIBADEAU - DUMAS' declaration, attached herewith.

Claims 31-38 are rejected under 35USC§103 as being unpatentable over RIBADEAU - DUMAS (US 5,470,591), in view of MENTINK (US 5,314,701).

New Claims 39 to 46 have been amended , and now relate to a boiled sugar comprising:

- at least one not very soluble compound selected from sugars, polyols and mixtures thereof, and
- at least one anti-crystallizing agent comprising a fraction of at least one compound selected from the group of pyrodextrins with a molecular weight in the range of 1000 to 8000 Daltons,

whereby the boiled sugar presents a microcrystallized surface layer.

The problem to be solved by the Applicants was to provide for a new boiled sugar which can be a plain boiled sugar which, as indicated in page 8 lines 16 to 23 of the specification :

- does not become sticky,
- does not grain or turn opaque and white in surface,
- does not become misshapen at normal summer temperatures in temperate climates.

The solution found by the Applicant is a boiled sugar which comprises :

- a sugar or a polyol having a low water solubility (lower than 60g/l) and selected among a very small number of compounds,
- and a specific anti-crystallising agent selected among pyrodextrins having a molecular weight ranging between 4000 and 5000 daltons,

said sugar presenting a microcrystallized surface layer.

As indicated in Mr. RIBADEAU-DUMAS's declaration, this is thanks to the association of two very specific components, which leads to the presence of a microcrystallized layer on the surface of the boiled sugar, that the transfer of water from the atmosphere to the boiled sugar is limited (as indicated at page 9 line 23-25) and thus, that the boiled sugar is stabilized against moisture.

Said solution could not be deduced from RIBADEAU - DUMAS in view of MENTINK.

RIBADEAU - DUMAS mentions that dextrins are used to control the crystallization of maltitol.

However, maltitol is a very soluble polyol as shown in Annex 1 (Handbook of Pharmaceutical Excipients Agents) where it is indicated that maltitol is fully soluble in water.

The action of dextrin on the crystallization of a weakly-soluble polyol cannot be deduced from RIBADEAU - DUMAS.

In fact, as indicated in Mr RIBADEAU - DUMAS' declaration, for the person skilled in the art, the crystallization depends on the solubility of polyol.

Polyols having very different solubilities will have different crystallization behaviours.

Furthermore the dextrins used in RIBADEAU - DUMAS are not the specific anti-crystallizing agents of the invention which are not described in MENTINK either.

The combination of RIBADEAU - DUMAS and Mentink could never result in the boiled sugar according to the invention.

In view of the above, it is considered that the application is now in proper form for allowance.

Favorable consideration and prompt allowance of these claims are respectfully requested.

Respectfully submitted.

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